

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

BIOSIG INSTRUMENTS, INC.,

Plaintiff,

v.

THE NAUTILUS GROUP, INC.,

Defendant.

Case No. 04 CIV. 6654 (AKH)

STIPULATION OF DISMISSAL

In accordance with Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, Plaintiff Biosig Instruments, Inc. ("Biosig") and Defendant The Nautilus Group, Inc. ("Nautilus") hereby give notice to the Court that they have agreed:

1. To dismiss all claims and counterclaims pending in this case without prejudice.
2. That the running of all statute of limitations, state of repose, period of prescription, laches, equity, waiver, contractual limitation periods and all other defenses premised upon any other rule or doctrine, at law or equity, relating to the untimeliness, delay or lack of notice that apply to any complaint, claims, counterclaims, causes of action or legal proceedings asserted by the parties in above-captioned action will be interrupted, suspended, and deemed to have been tolled as of August 17, 2004, the date the complaint was filed. The tolling shall extend to six months after the final disposition (where final disposition shall include any appeal or delay associated with any appeal) of the Reexamination ordered by the U.S. Patent and Trademark Office on February 5, 2009 ("Reexamination") of United States Patent 5,337,753 entitled "Heart Monitor" (the '753 Patent). The aforesaid tolling period shall not form the basis of any defense predicated on estoppel, acquiescence, waiver or any other doctrine, legal or equitable. Provided the claims in the above-captioned lawsuit are refiled by or before six months after the final

disposition of the pending Reexamination of the '753 Patent, all statute of limitations and other time bars shall be calculated as if the refiled action, and the counterclaims thereto, were filed on August 17, 2004 and March 3, 2009, respectively.

3. From the date of the filing of this Stipulation of Dismissal to the date of the final disposition of the Reexamination, neither Biosig nor Nautilus shall file suit against the other for any claims, counterclaims, causes of action or legal proceedings asserted by the parties in above-captioned action.

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